THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.4632 of 2006

Date: 03-08-2006

Between :-

B.Srikanth Goud .. Petitioner

And

Gram Panchayat, Toopran,
Medak district and another
.. Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.4632 of 2006

ORDER:

1. The writ petition is filed praying for a writ of mandamus declaring the action of the respondents in sealing the premises of the petitioner bearing shop No.6 in Gram Panchayat shopping complex, Toopran village and mandal, Medak district and depriving the petitioner from doing his business in sale of bakery items, as wholly illegal, arbitrary and without jurisdiction and to consequently direct the respondents herein to forthwith remove the seals effected on the business premises of the petitioner bearing shop No.6 in Gram Panchayat shopping complex of Toopran village and permit the petitioner to do business in sale of bakery items and to pass such other suitable order.

2. It is stated by the petitioner that he is an educated unemployed youth and with an intention to do business the petitioner approached the respondent Gram Panchayat Toopran in the year 1999 as the Toopran Gram Panchayat has a shopping complex consisting of 7 mulgies. Pursuant to his request, the then Sarpanch of Gram Panchayat was kind enough to allot him shop No.6 and he was asked to pay an amount of Rs.25,000/- towards advance and he had paid in three instalments, i.e., Rs.10,000/- by way of Demand Draft on 20.5.1999, Rs.10,000/- by way of cash on 30.7.1999 and Rs.5,000/- by way of cash on 20.8.1999 and the possession of the mulgi was delivered to him on 1.9.1999. It is also stated that initially the lease was for a period of three years commencing from September 1999. No written agreement was entered into between the petitioner and the

Gram Panchayat and even after September 2002, the lease was being extended for further period orally. The lease amount to be paid by the respondent was Rs.1,400/- per month and the petitioner has been paying the same regularly since the time of granting lease. The gram panchayat also did not seek for enhancement of rent at any point of time. It is stated that in the month of March 2005 the Sarpanch of Gram Panchayat called him and asked him to enhance the rent to Rs.6,000/- per month which was exorbitant and the petitioner expressed his inability to enhance the rent at that rate and it is stated that he does not take any objection for enhancement of rent reasonably but not @ Rs.6,000/- per month which is four times of the rent which is being paid by him at present. The respondent Gram Panchayat informed him that it would contact the District Panchayat Officer, Medak and would intimate him with regard to the rate of enhancement of lease amount, but thereafter no intimation was given to him. It is stated that though the petitioner paid the lease amount regularly till March 2005, and from March 2005 respondent started avoiding to receive the rent and when he made efforts to pay the rent through Bank, he could not get the bank account of respondent gram panchayat, hence he did not pay rents to respondent-Gram Panchayat from March 2005. While so, without any notice and enquiry the Executive Officer of the respondent-Gram Panchayat came to his shop on 16.10.2005 and sealed the shop stating that the petitioner cannot do business any further in the shop belonging to respondent-Gram Panchayat. Several other factual details also had been narrated in para-4 of the affidavit filed in support of the writ petition. Questioning the action of the respondent in sealing the shop, the petitioner approached this Court by filing W.P.No.27305 of 2005 and when the matter came up for hearing before this Court, the Standing Counsel appearing for the respondent-Gram Panchayat informed that they had no jurisdiction to seal the shop and hence,

steps would be taken for removing the seals. Thereafter the matter was posted to 23.12.2005 on which date the Standing Counsel informed that the seals were removed on the shop of the petitioner and by recording the same, the writ petition was closed. When the respondents had informed this Court that the rents were not paid by the petitioner and hence there was no other go but to seal the shop of the petitioner, this Court gave liberty to the respondent-Gram Panchayat to issue notice for the purpose of collecting rents and take action. Thereafter the petitioner approached the respondents on several occasions for payment of Rs.1,400/- per month, however the respondents did not accept the same and informed that the rents would be accepted only if the respondents were paid Rs.6,000/- per month, which is on higher side. As he could not afford to pay Rs.6,000/- per month there was no other go for him but to do his business without payment of rent. It is also further stated in para-7 of the affidavit filed in support of the writ petition that the respondent had no jurisdiction to seal the premises the respondent.

3. For non-compliance of the interim directions granted by this Court, a contempt case in C.C.No.365 of 2006 was filed and subsequent thereto it is stated that the respondents had complied with the directions of this Court and accordingly, the contempt case was closed today.

4. Counter affidavit is filed by the second respondent Sri Venkat Reddy, the Sarpanch. It is stated that as on today Sri B.Venkat Reddy, the second respondent in the writ petition, who filed W.V.M.P.No.652 of 2006 continues to be the Sarpanch. It is also stated that during recent elections another Sarpanch was elected. It is needless to say that the Gram Panchayat, Toopran as such would be interested in the matter, Whoever may be holding the office of the Sarpanch of the said Gram Panchayat.

5. In the counter affidavit filed, while denying several of the

allegations, specific stand was taken that in pursuance of the resolution dated 9.11.2004 of the Gram Panchayat, the Collector, Panchayat Wing, Medak by his proceedings No.1137/2004/A1.Pts., dated 28.2.2003 permitted the first respondent-Gram Panchayat to conduct open auction for the aforesaid shop and three other shops and the copies of the said proceedings are filed along with the material papers. After putting auction notice in the office of the Gram Panchayat, auction was conducted for the said shop and other shops on 4.5.2005 in the presence of Divisional Panchayat Officer, Siddipet, Executive Officer, Panchayat Raj Department Toopran, and Sarpanch of the Toopran Gram Panchayat. In the said auction one Suchetan Reddy became highest bidder for Rs.8,100/- per month towards lease amount for the said shop. The said proceedings were signed by the above said officials and a copy of the same is filed in the material papers marked as Ex.R2. On that date, Suchetan Reddy paid only Rs.5,000/- towards advance. He was running the bakery in the said shop, but the said Suchetan Reddy did not pay any amount. The respondent-Gram Panchayat vide notices dated 7.7.2005 and 30.7.2005 asked said Suchetan Reddy to pay the lease amount of Rs.8,100/- per month from May till that date, but the said Suchetan Redy did not pay the same and lock was put on the shop in September 2005. It was also stated that then the petitioner herein filed W.P.No.27305 of 2005 on the file of this Court and pursuant to the orders of this Court one Shaik Jaleel had been running bakery in the said shop and it appears that said Shaik Jaleel had been paying some amount to the petitioner herein as well as Suchetan Reddy and said Shaik Jaleel had not paid any amount towards rent to the Gram panchayat. When Gram Panchayat forced him to pay the lease amount from April 2005 onwards, said Shaik Jaleel vacated the shop on 6.3.2006. It is also stated that said Shaik Jaleel issued a letter

stating that he is unable to pay the said amount and that he is vacating the said shop and the Gram Panchayat on 6.3.2006 took possession of the shop by way of panchanama. It is also stated that the alleged advance amount is not for refunding and is payable over and above the lease amount. It is also stated that since May 2005 the said shop had been leased out in favour of Suchetan Reddy. The averments made in the affidavit filed in support of the writ petition are denied and it is stated that there are no merits in the writ petition. The other allegations were denied and specific stand was taken that this respondent never demanded the petitioner to pay Rs.6,000/- per month as loan.

6. In the light of the facts and circumstances, inasmuch as it is stated that the petitioner had been continuing in the premises orally and inasmuch as no written agreement as such was entered into, the Gram Panchayat is at liberty to initiate appropriate action and take possession of the property and further proceed in the matter. It is no doubt stated that the possession had been restored and the learned counsel for petitioner states that subsequent thereto he has no further instruction in relation to what is actual position existing as on today, is. The same is hereby recorded.

7. In the light of the specific stand taken by the second respondent, the Sarpanch and inasmuch as the same is being adopted by the first respondent – the Gram Panchayat, the interest of the Gram Panchayat always to be protected and the exchequer of the Gram Panchayat to be safeguarded. In the light of the same, in the event of Gram Panchayat either conducted auction of the shops already or further proceeding with any proposed auction in future, to safeguard the interest of the Gram Panchayat, it is made clear that the Gram Panchayat is at liberty to do so.

8. With the above observation, the writ petition is disposed of. It is needless to say that the gram Panchayat is at liberty to initiate

appropriate action for recovery of amount, if any due from the writ petitioner.

03.8.2006

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